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Hon. James L. Robart

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10 IN THE UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13	ADRIAN STEADMAN,	}	Case No. 2:14-cv-00854-JLR	
14	Plaintiff,		}	GREEN TREE SERVICING LLC'S
15	v.			MOTIONS <i>IN LIMINE</i> NO. 7 TO EXCLUDE
16	GREEN TREE SERVICING, LLC, et al.,			EVIDENCE
17	Defendants.		ORAL ARGUMENT REQUESTED	
18			(NOTE ON MOTION CALENDAR: May 28, 2015)	

19 **LCR 7(d)(4) COMPLIANCE**

20 Defendant Green Tree Servicing, LLC ("Green Tree") counsel has conferred in
21 good faith with Plaintiff's counsel to determine whether the parties could resolve these
22 matters pursuant to LR 7(d)(4), but the parties were unable to reach agreement.

23 On April 27, 2015, Green Tree filed its Motions *in Limine* Nos. 1 through 6,
24 Docket No. 35. Thereafter, on May 20, 2015, Plaintiff's counsel advised Plaintiff intends
25 to offer Fannie Mae's Servicing Guides for 2012 and 2013 ("Servicing Guides") as
26 exhibits in this case. Plaintiff had not previously disclosed or produced either document

1 in discovery. For the reasons set forth below, these Servicing Guides are not relevant
2 to this matter.

3 Because Plaintiff had not previously disclosed or produced the documents and
4 because they are not relevant, Green Tree did not expect Plaintiff to attempt to offer
5 them as evidence. Therefore, Green Tree did not include this Motion *in Limine* No. 7
6 with its other Motions *in Limine* filed on April 27, 2015. Plaintiff's May 20, 2015
7 disclosure that he intends to use the documents as trial exhibits requires Green Tree to
8 file this Motion *in Limine* No. 7.

9 Based on the foregoing, good cause exists for this Motion *in Limine* No. 7 to be
10 noted for consideration on May 28, 2015, the same date as the Court's pretrial
11 conference with the parties.

12 INTRODUCTION AND FACTUAL BACKGROUND

13 Green Tree is the current loan servicer of Plaintiff's 2003 mortgage loan with
14 Countrywide Home Loans, Inc. (the "Loan"). On or about June 1, 2013, Green Tree
15 received a transfer of the servicing rights to the Loan (the "Transfer") from Bank of
16 America ("BANA"), which acquired the Loan from Countrywide.

17 MOTION AND ARGUMENT

18 Green Tree moves to prohibit Plaintiff from offering the Servicing Guides at trial
19 on grounds such evidence is not relevant to establishing any of Plaintiff's claims
20 asserted in this action and is unduly prejudicial. Among other things, the Servicing
21 Guides, like pooling and servicing agreements, set forth the rights and obligations
22 between the lender and servicer. This Court has previously rejected borrowers'
23 attempts to assert claims under pooling and servicing agreements between a lender
24 (like Fannie Mae) and a servicer (like BANA or Green Tree), because borrowers are not
25 parties to these agreements and lack standing to enforce them. See *OgorSolka v.*

1 *Residential Credit Solutions, Inc.*, 2014 U.S. Dist. LEXIS 180566; *Frazer v. Deutsche*
2 *Bank National Trust Company*, 2012 U.S. Dist. LEXIS 69883.

3 The issue with the Servicing Guides is the same. The Servicing Guides do not
4 confer any rights or obligations on Plaintiff. Plaintiff is not a party to the Servicing
5 Guides. Rather, the Servicing Guides set forth the relationship, rights, and obligations
6 between Fannie Mae and the servicer (BANA or Green Tree). Thus, as with the pooling
7 and servicing agreements, Plaintiff lacks standing to enforce or assert a claim under the
8 Servicing Guides.

9 Because Plaintiff cannot use the Servicing Guides to show that Green Tree
10 breached any duty to him, the Servicing Guides are not relevant to any claim asserted
11 by Plaintiff in this case. The dubious value, if any, of admitting the Servicing Guides is
12 substantially outweighed by the danger they will confuse or mislead the jury on relevant
13 issues, prejudice Green Tree, and waste the time of the Court and the parties.
14 Admission of this evidence should be precluded under Rules 402 and 403.

15 Respectfully submitted this 26th day of May, 2015.

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*22428-019\GREEN TREE'S MOTION IN LIMINE NO 7 (02112538);1